

CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION
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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Licenses and Licensing
Rights of
PROSPERO OSCAR PEREZ,

Respondent.

ACCUSATION

File No.: RC 67849 - AP

The Insurance Commissioner of the State of California, acting in his official capacity
(Commissioner), alleges as follows:

I

PARTY

A. Respondent Prospero Oscar Perez (Perez) holds, and at all times relevant hereto held,
an insurance adjuster license issued by the Commissioner (Insurance Adjuster License.)

B. Perez does not hold, and at no time has held, a license to act as an public insurance
adjuster pursuant to California Insurance Code Section 15006 *et seq.* (Public Adjuster License.)

C. Perez is not an attorney and is not licensed to practice law in the State of California.

II

BACKGROUND

The Commissioner is informed and believes, and thereon alleges, as follows.

A. At all times relevant hereto, Perez conducted a business of representing persons that
were involved in automobile accidents (Claimants) in submitting claims to the insurance

1 companies of third parties that were responsible for such accidents.

2 B. At all times relevant hereto, Perez also conducted a business of representing persons
3 that were involved in automobile accidents in submitting claims against their own insurance
4 companies (Insureds), even though Perez does not hold a Public Adjuster License.

5 C. As part of his representation of Claimants and Insureds, Perez arranged for Claimants
6 and Insureds to obtain medical evaluations, medical services, chiropractic services and/or other
7 therapeutic or rehabilitative services (collectively, "Medical Services") from physicians, medical
8 clinics, chiropractors, health practitioners or therapists, including but not limited to Tri-City
9 Medical & Rehabilitation Center (Tri-City), Back to Health Chiropractic (BTH), "G" Street
10 Ontario Health Center (G St.), and Corona Inland Pain Relief Center (Corona) (collectively,
11 "Clinics.")

12 D. As part of his representation of Claimants and Insureds, Perez arranged with the
13 Clinics that the Clinics would not bill Clients or Insureds for Medical Services, but instead the
14 Clinics would submit bills for Medical Services to Perez and Perez would submit them to
15 insurers, or at Perez' direction the Clinics would submit their bills directly to insurers.

16 E. As part of his representation of Claimants and Insureds, Perez entered into written
17 agreements titled a "Notice of Designation" which authorized Perez, doing business as "Prospero
18 Adjusting Firm," to " ... enter into settlement negotiations [sic], conduct arbitrations, mediations,
19 settlement conferences and litigate to trial on my behalf" any claims. The Notice of Designation
20 identified Perez' Insurance Adjuster License as "Adjuster Lic. # 2C37419," even though Perez
21 would not be performing insurance adjuster services.

22 F. In undertaking representation of Claimants and Insureds, Perez represented that he was
23 undertaking such representation pursuant to the authority of his Insurance Adjuster License or as
24 a licensed public adjuster.

25 G. As part of his representation of Claimants and Insureds, Perez undertook the following
26 matters; he determined the type of claims and damages available to each Claimant and Insured,
27 determined value of the claims, advised Claimants and Insureds of the amounts they should seek
28 and accept for their injuries and losses, made demands on insurers for payment of claims,

1 demanded commencement of arbitration proceedings, negotiated settlements, counseled
2 Claimants and Insureds to accept settlements, presented general releases to Insureds and
3 Claimants and advised them to sign them, and provided other services that individually or as a
4 whole constitute the practice of law. Perez personally performed these services, or they were
5 performed at Perez' direction by his employees or agents who were not attorneys.

6 III

7 **UNAUTHORIZED PRACTICE OF LAW**

8 The Commissioner is informed and believes, and thereon alleges, that Perez acted as an
9 attorney in representing Claimants and Insureds in connection with presenting, negotiating and
10 settling the claims set forth below. The names of the Claimants are abbreviated to protect their
11 privacy.

12 A. Leonardo C. and Margarita C.

13 1. On or about July 2002, Perez was retained by Leonardo C., Margarita C., and
14 Margarita C. on behalf of her minor children Juana C., Jose C. and Oscar C. (the "C. Children"),
15 in connection with an automobile accident that occurred on April 8, 2002 in which each of them
16 sustained injury and loss. Perez agreed to evaluate, arrange, determine, present, negotiate, and
17 settle their claims for injury and loss with Mercury Insurance Company (Mercury), which was the
18 insurer of the person responsible for the automobile accident. As part of the retention
19 agreements, Leonardo C. and Margarita C. (individually and on behalf of the C. Children) each
20 agreed that Perez would retain one-third of any recovery from Mercury as a fee. As part of the
21 agreements, Leonardo C. and Margarita C. each executed a "Notice of Designation" in the form
22 described in Paragraph II(E) and Margarita C. executed "Notices of Designation," in the form
23 described in Paragraph II(E), in her capacity as legal guardian of the C. Children.

24 2. In connection with undertaking the representations of Leonardo C., Margarita C., and
25 the C. Children, Perez represented to Leonardo C. and Margarita C. that he was acting pursuant to
26 the authority of his Insurance Adjuster License or was acting as a licensed public adjuster.

27 3. In performance of the agreements, Perez directed Leonardo C., Margarita C., and each
28 of the C. Children to obtain Medical Services from Tri-City and Perez entered into an agreement

1 with Tri-City that it would seek payment for Medical Services solely from Mercury. Perez also
2 agreed with Tri-City that Tri-City would submit bills for the Medical Services to Perez who
3 would seek payment for such services from Mercury, or at Perez' direction it would submit bills
4 directly to Mercury.

5 4. Pursuant to his agreements, Perez evaluated and determined the amount of injuries and
6 losses Leonardo C., Margarita C., and the C. Children, evaluated whether and to what extent
7 Mercury would compensate them for the injuries and losses, presented claims to Mercury,
8 negotiated with Mercury, and agreed to settlements for each of them. Perez forwarded a release
9 signed by Leonardo C. to Mercury and forwarded to Mercury releases that were purportedly
10 signed by Margarita C. for herself and on behalf of the C. Children. Perez received settlement
11 checks from Mercury in payment of the settlements.

12 B. Angel A.

13 1. In or about May 2005, Perez was retained by Angel A. to represent his interests in
14 connection with an automobile accident that occurred on April 15, 2005 in which he sustained
15 injury and loss. Perez agreed to evaluate, arrange, determine, present, negotiate, and settle claims
16 for injury and loss to Mercury, which was the insurer of the person responsible for the automobile
17 accident. As part of the retention agreement, Angel A. agreed that Perez would retain one-third
18 of any recovery from Mercury as his fee for representing him. As part of the agreement, Angel
19 A. executed a "Notice of Designation" in the form described in Paragraph II(E).

20 2. In connection with undertaking the representation of Angel A., Perez represented that
21 he was acting within the authority of his Insurance Adjuster License or was acting as a licensed
22 public adjuster.

23 3. In performance of the agreement, Perez directed Angel A. to obtain Medical Services
24 from BTH and Perez entered into an agreement with BTH that it would seek payment for Medical
25 Services solely from Mercury. Perez also agreed with BTH that it would submit bills for the
26 Medical Services to Perez who would seek payment for such services from Mercury, or at Perez'
27 direction BTH would submit bills directly to Mercury.

28 4. Pursuant to his agreement, Perez evaluated and determined the amount of Angel A.'s

1 injury and loss, evaluated whether and to what extent Mercury would compensate him for the
2 injury and loss, presented a claim to Mercury, negotiated with Mercury, agreed to a settlement,
3 explained the terms of the settlement and the terms of a general release to Angel A., advised
4 Angel A. to execute the release, obtained his signature on release, forwarded the release to
5 Mercury and received a check in payment of the settlement from Mercury.

6 C. Santana M.

7 1. On or about October 22, 2003, Perez was retained by Santana M. to represent his
8 interests in connection with an automobile accident that occurred on September 15, 2003 in which
9 he suffered injury and loss. Perez agreed to evaluate, arrange, determine, present, negotiate, and
10 settle claims for injury and loss to California Automobile Insurance Company (California Auto),
11 which was the insurer of the person responsible for the automobile accident. As part of the
12 retention agreement, Santana M. agreed that Perez would retain one-third of any recovery from
13 California Auto as his fee for representing him. As part of the agreement, Santana M. executed a
14 "Notice of Designation" in the form described in Paragraph II(E).

15 2. In connection with undertaking the representation of Santana M., Perez represented
16 that he was acting within the authority of his Insurance Adjuster License or was acting as a
17 licensed public adjuster.

18 3. In performance of the agreement, Perez directed Santana M. to obtain Medical Services
19 from Corona and Perez entered into an agreement with Corona that it would seek payment for
20 Medical Services solely from California Auto. Perez also agreed with Corona that it would
21 submit bills for the Medical Services to Perez who would seek payment for such services from
22 Mercury, or at Perez' direction it would submit bills directly to Mercury.

23 4. Pursuant to his agreement, Perez evaluated and determined the amount of Santana M.'s
24 injury and loss, evaluated whether and to what extent California Auto would compensate him for
25 the injury and loss, presented a claim to California Auto, negotiated with California Auto, and
26 agreed to a settlement. Perez forwarded a release to California Auto that was purportedly signed
27 by Santana M. and Perez received a settlement check in payment of the settlement from
28 California Auto.

1 D. Vanessa B.

2 1. In or about August 2003, Perez was retained by Vanessa B. to represent her interests in
3 connection with an automobile accident that occurred on August 6, 2003 in which she sustained
4 injury and loss. Perez agreed to evaluate, arrange, determine, present, negotiate, and settle claims
5 for injury and other loss to Western General Insurance Company (Western General), which was
6 the insurer of the person responsible for the automobile accident.

7 2. In connection with undertaking the foregoing representation of Vanessa B., Perez
8 represented that he was acting within the authority of his Insurance Adjuster License or was
9 acting as a licensed public adjuster.

10 3. In connection with the agreement, Perez advised Vanessa B. to sign a "Medical Lein
11 [sic] For Services Rendered" and directed her to obtain medical services from G Street.

12 4. Pursuant to his agreement, Perez evaluated and determined the amount of Vanessa B.'s
13 injury and loss, evaluated whether and to what extent Western General would compensate her for
14 the injury and loss, presented a claim to Western General, negotiated with Western General,
15 agreed to a settlement, explained the terms of the settlement and the terms of a general release to
16 Vanessa B., advised Vanessa B. to execute the general release, obtained her signature on the
17 release, and received a check in payment of the settlement from Western General.

18 IV

19 **UNAUTHORIZED PRACTICE AS PUBLIC ADJUSTER**

20 1. In or about December 2002, Perez was retained by Jose A. to act as a public adjuster in
21 connection with an automobile accident that occurred in 2002 in which Jose A. suffered injury
22 and loss. Perez agreed to present a claim on behalf of Jose A. to his insurer, Mercury, and seek
23 compensation under the uninsured motorist coverage in Jose A.'s Mercury insurance policy. As
24 part of the retention, Jose A. agreed that Perez would retain one-third of any recovery from
25 Mercury as his fee. As part of the agreement, Jose A. executed a "Notice of Designation" in
26 the form described in Paragraph II(E).

27 2. In connection with undertaking the representation of Jose A., Perez represented that he
28 was acting within the authority of his Insurance Adjuster License or was licensed as a public

1 adjuster.

2 3. In performance of the agreement, Perez directed Jose A. to obtain Medical Services
3 from G Street and Perez entered into an agreement with G Street that it would submit bills for the
4 Medical Services to Perez who would seek payment for such services from Mercury, or at Perez'
5 direction it would submit bills directly to Mercury.

6 4. Pursuant to his agreement, Perez evaluated and determined the amount of Jose A.'s
7 injury and loss, evaluated whether and to what extent Mercury would compensate him for the
8 injury and loss, presented a claim to Mercury, negotiated with Mercury, demanded arbitration,
9 agreed to a settlement, explained the terms of the settlement and the terms of a general release to
10 Jose A., advised Jose A. to execute the release, obtained his signature on release, forwarded the
11 release to Mercury, and received Mercury's check in settlement of the claim.

12 V

13 **FAILURE TO PERFORM AGREEMENTS**

14 A. Margarita C.

15 1. As set forth in Paragraph II(A)(4), Perez negotiated settlement agreements with
16 Mercury to settle the claims of Margarita C. and the C. Children. Perez received four checks
17 from Mercury in the following amounts to settle the claims: Margarita C. - \$3,000, Jose C. -
18 \$2,499, Juana C. - \$2,499, and Oscar C. - \$1,000.

19 2. In breach of his agreements with Margarita C., Perez did not advise Margarita C. of the
20 amount of any of the settlements set forth in Subparagraph (1).

21 3. In breach of his agreements, Perez did not present the Mercury checks to Margarita C.
22 for her endorsement. The endorsement on each check in the name of Margarita C. was not made
23 by Margarita C. and was made without her knowledge, consent, or ratification.

24 4. Perez received four general release forms from Mercury in connection with the
25 settlement of the claims of Margarita C. and the C. Children. In breach of his agreements, Perez
26 did not present the release forms to Margarita C. The signature of Margarita C. on each release
27 was not made by Margarita C. and was made without her knowledge, consent, or ratification.

28 B. Santana M.

1 1. As set forth in Paragraph II(C)(4), Perez negotiated a settlement agreement with
2 California Auto to settle the claim of Santana M. for \$4,000. Perez received a settlement check in
3 that amount from California Auto.

4 2. In breach of his agreement, Perez did not present the check to Santana M. for his
5 endorsement and the endorsement on the check in the name of Santana M. was not made by
6 Santana M. and was made without his knowledge, consent or ratification.

7 3. Perez received general release form California Auto in connection with the settlement
8 of Santana M.'s claim (California Auto Release.) In breach of his agreement, Perez did not
9 present the California Auto Release to Santana M. The signature of Santana M. on the California
10 Auto Release was not made by Santana M. and was made without his knowledge, consent, or
11 ratification.

12 4. Despite having knowledge that the signature of Santana M. on California Auto Release
13 was a forgery, Perez forwarded the release to Western General with the express or implied
14 representation that the signature was genuine.

15 VI

16 CONVERSION

17 A. Leonardo C.

18 1. As set forth in Paragraph III (A)(4), Perez negotiated an agreement with Mercury to
19 settle the claim of Leonardo C. The claim was settled in the amount of \$3,000 and pursuant to the
20 settlement, Perez received a check from Mercury in that amount. Perez obtained the endorsement
21 of Leonardo C. on the Mercury settlement check and deposited the check into his trustee account.

22 2. Pursuant to his agreement with Perez, Leonardo C. was to receive \$2,000 and Perez
23 was to receive a fee of one-third of the settlement proceeds, to wit \$1,000. Perez paid Leonardo
24 C. only \$1,000 and he failed and refused to pay him the additional \$1,000 to which he was
25 entitled. Perez misappropriated and converted \$1,000 belonging to Leonardo C. to his own use
26 and to the exclusion of Leonardo C. or his benefit.

27 B. Margarita C.

28 1. As set forth in Paragraph III(A)(4) and Paragraph V(A)(1), Perez negotiated

1 agreements with Mercury to settle the claims of Margarita C. and the C. Children. Perez received
2 and deposited four settlement checks from Mercury and deposited the proceeds of each into his
3 trustee account.

4 2. Pursuant to her agreements with Perez, Margarita C. (on her behalf and on behalf of
5 the C. Children), Margarita C. was to receive \$5,999 and Perez was to receive a fee of one-third
6 of the settlement proceeds, to wit \$2,999. Perez paid Margarita C. only \$2,500 (for herself and
7 for the C. Children) and he failed and refused to pay her the additional \$3,499 to which she and
8 the C. Children were entitled. Perez misappropriated and converted \$3,499 belonging to
9 Margarita C. and the C. Children to his own use and to the exclusion of Margarita C. and the C.
10 Children or their benefit.

11 C. Santana M.

12 1. As set forth in Paragraph III (c)(4) Perez negotiated an agreement with California Auto
13 to settle the claim of Santana M. The claim was settled in the amount of \$4,000 and pursuant to
14 the settlement, Perez received a check from California Auto in that amount. Perez deposited the
15 settlement check proceeds into his trustee account.

16 2. Pursuant to his agreement with Perez, Santana M. was to receive \$2,667 and Perez was
17 to receive a fee of one-third of the settlement proceeds, to wit \$1,333. Perez paid Santana M.
18 only \$1,000 and he failed and refused to pay him the additional \$1,667 to which he was entitled.
19 Perez misappropriated and converted \$1,667 belonging to Santana M. to his own use and to the
20 exclusion of Santana M. or his benefit.

21 D. Vanessa B.

22 1. As set forth in Paragraph III(D)(4), Perez negotiated an agreement with Western
23 General to settle the claim of Vanessa B. The claim was settled in the amount of \$3,084 and
24 pursuant to the settlement, Perez received a check from Western General in that amount. Perez
25 deposited the settlement check into his trustee account.

26 2. Pursuant to her retention agreement with Perez, Vanessa B. was to receive \$2,056 and
27 Perez was to receive a fee of one-third of the settlement proceeds, to wit \$1,028. Perez did not
28 pay any part of the settlement proceeds to Vanessa B. and he misappropriated and converted

1 \$2,056 belonging to Vanessa B. to his own use and to the exclusion of Vanessa B. or her benefit.

2 VII

3 FORGED SIGNATURES

4 A. As set forth in Paragraph V(B)(2) Santana M. did not endorse the settlement check
5 that was received from California Auto. The settlement check was at all times within the custody
6 and control of Perez. The Commissioner is informed and believes that Perez endorsed Santana
7 M.'s name on the settlement check, without the knowledge, consent or ratification of Santana M.

8 B. As set forth in Paragraph V(B)(3) Santana M. did not sign the general release form.
9 The settlement check was at all times within the custody and control of Perez. The Commissioner
10 is informed and believes that Perez signed Santana M.'s name on the general release from without
11 the knowledge, consent or ratification of Santana M.

12 VIII

13 VIOLATIONS

14 A. Unauthorized Practice of Law. The matters set forth in Article III indicate that Perez,
15 in violation of California law, acted as an attorney at law in the preparation and prosecution of
16 claims on behalf of Leonardo C., Margarita C., the C. Children, Angel A., and Vanessa B. Perez
17 is not licensed as an attorney at law. The foregoing constitute grounds for the Commissioner to
18 suspend or revoke Perez' Insurance Adjuster License and his licensing rights pursuant to the
19 following Insurance Code Sections:

20 i. Insurance Code §§14061, 14028(a), and Business & Professions Code §480(a)(2);

21 ii. Insurance Code §§14061, 14028(e), and 1668(b) on the ground that holding the
22 Licenses by Perez is against the public interest;

23 ii. Insurance Code §§14061, 14028(e), and 1668(e) on the grounds that Perez is lacking in
24 integrity;

25 iv. Insurance Code §§14061, 14028(e), and 1668(i) on the grounds that Perez has
26 conducted business in a dishonest manner; and

27 v. Insurance Code §§14061, 14028(e), and 1668(j) on the grounds that Perez has shown
28 untrustworthiness in the conduct of business.

1 B. Misrepresentation. The matters set forth in Article III and Article IV indicate that
2 Perez represented to Leonardo C., Margarita C., the C. Children, Angel A., Vanessa B. and Jose
3 A. that he was authorized to prepare and prosecute claims on their behalf pursuant to his
4 Insurance Adjuster License or pursuant to a public adjuster license. The foregoing constitutes
5 grounds for the Commissioner to suspend or revoke Perez' Insurance Adjuster License and his
6 licensing rights pursuant to the following Insurance Code Sections:

- 7 i. Insurance Code §§14061, 14028(a), and Business & Professions Code §480(a)(2);
- 8 ii. Insurance Code §§14061, 14028(e), and 1668(b) on the ground that holding the
9 Licenses by Perez is against the public interest;
- 10 iii. Insurance Code §§14061, 14028(e), and 1668(e) on the grounds that Perez is lacking
11 in integrity;
- 12 iv. Insurance Code §§14061, 14028(e), and 1668(i) on the grounds that Perez has
13 conducted business in a dishonest manner; and
- 14 v. Insurance Code §§14061, 14028(e), and 1668(j) on the grounds that Perez has shown
15 untrustworthiness in the conduct of business.
- 16 vi. Insurance Code §§14061, 14028(e), and 1668(l) on the grounds that Perez failed to
17 perform a duty expressly enjoined upon him by a provision of the Insurance Code, to wit
18 Insurance Code §14039(b) which prohibits the making of misrepresentations.
- 19 vii. Insurance Code §14061(b) and 14039(b).

20 C. Breach of Agreements. The matters set forth in Article V indicate that Perez willfully
21 failed or refused to render services as agreed upon to Margarita C., the C. Children, and Santana
22 M., for which compensation was paid. The foregoing constitutes grounds for the Commissioner
23 to suspend or revoke Perez' Insurance Adjuster License and his licensing rights pursuant to the
24 following Insurance Code Sections:

- 25 i. Insurance Code §§14061, 14028(e), and 1668(b) on the ground that holding the
26 Licenses by Perez is against the public interest;
- 27 ii. Insurance Code §§14061, 14028(e), and 1668(e) on the grounds that Perez is lacking in
28 integrity;

1 iii. Insurance Code §§14061, 14028(e), and 1668(i) on the grounds that Perez has
2 conducted business in a dishonest manner; and

3 iii. Insurance Code §§14061, 14028(e), and 1668(j) on the grounds that Perez has shown
4 untrustworthiness in the conduct of business.

5 iv. Insurance Code §14061(g).

6 D. Unauthorized Practice as Public Adjuster. The matters set forth in Article IV indicate
7 that Perez willfully acted as a public adjuster without holding a public adjuster license issued by
8 the Commissioner. The foregoing constitutes grounds for the Commissioner to suspend or revoke
9 Perez' Insurance Adjuster License and his licensing rights pursuant to the following Insurance
10 Code Sections:

11 i. Insurance Code §§14061, 14028(a), and Business & Professions Code §480(a)(2);

12 ii. Insurance Code §§14061, 14028(e), and 1668(b) on the ground that holding the
13 Licenses by Perez is against the public interest;

14 iii. Insurance Code §§14061, 14028(e), and 1668(e) on the grounds that Perez is lacking
15 in integrity; and

16 iv. Insurance Code §§14061, 14028(e), and 1668(i) on the grounds that Perez has
17 conducted business in a dishonest manner; and

18 v. Insurance Code §§14061, 14028(e), and 1668(j) on the grounds that Perez has shown
19 untrustworthiness in the conduct of business.

20 E. Conversion. The matters set forth in Article VI indicate that Perez converted monies
21 belonging to Leonardo C., Margarita C., the C. Children, Santana M. and Vanessa B. The
22 foregoing constitutes grounds for the Commissioner to suspend or revoke Perez' Insurance
23 Adjuster License and his licensing rights pursuant to the following Insurance Code Sections:

24 i. Insurance Code §§14061, 14028(a), and Business & Professions Code §480(a)(2);

25 ii. Insurance Code §§14061, 14028(e), and 1668(b) on the ground that holding the
26 Licenses by Perez is against the public interest;

27 iii. Insurance Code §§14061, 14028(e), and 1668(e) on the grounds that Perez is lacking
28 in integrity; and

1 iv. Insurance Code §§14061, 14028(e), and 1668(i) on the grounds that Perez has
2 conducted business in a dishonest manner; and

3 v. Insurance Code §§14061, 14028(e), and 1668(j) on the grounds that Perez has shown
4 untrustworthiness in the conduct of business.

5 F. Forged Signatures. The matters set forth in Article VII indicate that Perez forged the
6 signatures of Santana M, without his knowledge, consent or ratification. The foregoing
7 constitutes grounds for the Commissioner to suspend or revoke Perez' Insurance Adjuster License
8 and his licensing rights pursuant to the following Insurance Code Sections:

9 i. Insurance Code §§14061, 14028(a), and Business & Professions Code §480(a)(2);

10 ii. Insurance Code §§14061, 14028(e), and 1668(b) on the ground that holding the
11 Licenses by Perez is against the public interest;

12 iii. Insurance Code §§14061, 14028(e), and 1668(e) on the grounds that Perez is lacking
13 in integrity;

14 iv. Insurance Code §§14061, 14028(e), and 1668(i) on the grounds that Perez has
15 conducted business in a dishonest manner; and

16 v. Insurance Code §§14061, 14028(e), and 1668(j) on the grounds that Perez has shown
17 untrustworthiness in the conduct of business.

18 Date: December 10, 2009

STEVE POIZNER
Insurance Commissioner

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20
21 By _____
22 Harry J. LeVine
23 Senior Staff Counsel
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